



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2014-1069]

RIN 1625-AA00

Safety Zones, Captain of the Port New Orleans Zone

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

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SUMMARY: The Coast Guard is establishing temporary safety zones for multiple locations and dates within the Captain of the Port New Orleans zone. These safety zones are necessary to protect persons and vessels from potential safety hazards associated with fireworks displays on or over Federal waterways. Entry into these zones is prohibited unless specifically authorized by the Captain of the Port (COTP) New Orleans or a designated representative.

DATES: This rule is effective without actual notice from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] until July 4, 2015. For the purposes of enforcement, actual notice will be used from April 24, 2015 until [INSERT DATE OF PUBLICATION

IN THE FEDERAL REGISTER].

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2014-1069]. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Lieutenant Commander (LCDR) James Gatz, Sector New Orleans, at (504) 365-2281 or [James.C.Gatz@uscg.mil](mailto:James.C.Gatz@uscg.mil). If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Table of Acronyms

AHP	Above Head of Passes
COTP	Captain of the Port
DHS	Department of Homeland Security
FR	Federal Register
MM	Mile Marker
NPRM	Notice of Proposed Rulemaking

#### A. Regulatory History and Information

On March 25, 2015, the Coast Guard published an NPRM entitled Safety Zones; Captain of the Port New Orleans Zone in the Federal Register (80 FR 15705). We did not receive any comments in response to the proposed rule. No public meeting was requested and none were held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Providing a full 30 days notice is contrary to the public interest as it would delay the effectiveness of a portion of the safety zones until after the planned fireworks events. Immediate action is needed to protect vessels and mariners from the safety hazards associated with aerial fireworks displays over a waterway when large concentrations of spectators are expected. The Coast Guard did not receive any comments on the proposed rule following the publication of the NPRM. The Coast Guard will give actual notice to the public and maritime community that each safety zone will be in effect and of the enforcement periods via broadcast notices to mariners.

#### B. Basis and Purpose

The legal basis and authorities for this rule are found in 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1; 6.04-1, 6.04-6,

and 160.5; Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to establish and define safety zones.

The Coast Guard has determined that temporary safety zones are necessary to promote the safety of life on navigable waterways within the COTP New Orleans Zone during these events due to the potentially hazardous conditions caused by the fireworks and the high volume of spectators that are anticipated.

#### C. Discussion of the Final Rule

The Coast Guard is establishing five temporary safety zones within the Captain of the Port (COTP) New Orleans Zone between April 27, 2015 and July 4, 2015.

The events to be covered by this rule will be enforced on the respective dates listed in the table below.

Item Number	Name of Event	Date and Location
1	New Orleans Navy Week	Date: April 27, 2015  Location: the entire width of the Lower Mississippi

		River between MM 94 and MM 96 Above Head of Passes
2	Hosts Global	Date: April 28, 2015  Location: the entire width of the Lower Mississippi River between MM 94 and MM 96 Above Head of Passes
3	Madisonville 4 <sup>th</sup> of July	Date: July 4, 2015  Location: the entire width of the Tchefuncta River between the confluence of the Tchefuncta River and Lake Pontchartrain, extending one mile north
4	Mandeville City Seafood Festival	Date: July 4, 2015

		Location: 350 feet in all directions from the end of the Fountainbleau State Park Pier in Lake Pontchartrain
5	Mandeville Lakefront Fireworks	Date: July 4, 2015  Location: 350 feet in all directions from the fireworks barge, which will be positioned offshore of Mandeville, LA in Lake Pontchartrain.

Entry into these zones is prohibited unless permission has been granted by the COTP New Orleans, or a designated representative.

The COTP New Orleans will inform the public through broadcast notices to mariners of the enforcement period for the safety zones as well as any changes in the planned schedule. Mariners and other members of the public may also contact Coast

Guard Sector New Orleans Command Center to inquire about the status of the safety zone, at (504) 365-2200.

#### D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

##### 1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. These temporary safety zones will restrict navigation on the Lower Mississippi River in the vicinity of New Orleans, Louisiana, the southern end of the Tchefuncta River near Madisonville, Louisiana, and Lake Pontchartrain in vicinity of Mandeville, Louisiana. No safety zone will be established for longer than one hour. Due to the limited scope and short duration of each temporary safety zone, the impacts on routine navigation are expected to be minimal.

##### 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C.

601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because it is limited in scope and each temporary safety zone will only be in effect for approximately one hour on one day. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit the following waterways on the listed dates: The Lower Mississippi River in New Orleans, Louisiana on April 27, 2015 and April 28, 2015; the Tchefuncta River near Madisonville, Louisiana on July 4, 2015, and the north shore of Lake Pontchartrain in the vicinity of Mandeville, LA on July 4, 2015. Before enforcement, COTP New Orleans will issue maritime advisories widely available to users of the impacted waterways and will make notifications to the public through marine band radio when the temporary safety zones are being enforced. Additionally,



deviation from this rule may be requested and will be considered on a case by case basis by COTP New Orleans or a COTP New Orleans designated representative.

### 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### 4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

#### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### 7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a

State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### 8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### 9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### 10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### 11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a

substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### 12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

#### 13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishing temporary safety zones in the Lower Mississippi River, Tchefuncta River, and Lake Pontchartrain. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination

and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165-REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04.6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. A new temporary § 165.T08-1069 is added to read as follows:

§ 165.T08-1069 Safety Zones, Captain of the Port New Orleans Zone, LA.

(a) Locations. The following areas are safety zones:

(1) All waters of the Lower Mississippi River from mile marker

94 to mile marker 96 above Head of Passes, New Orleans, LA.

This location will be used for the New Orleans Navy Week and Hosts Global events.

(2) All waters of the Tchefuncta River from the confluence of the Tchefuncta River and Lake Pontchartrain, extending one mile north into the Tchefuncta River, Madisonville, LA. This location will be used for the Madisonville Fourth of July event.

(3) All waters of Lake Pontchartrain extending 350 feet in all directions from the end of the Fountainsbleau State Park Pier in Mandeville, LA. This location will be used for the Mandeville City Seafood Festival.

(4) All waters of Lake Pontchartrain extending 350 feet in all directions from a fireworks barge located offshore of Mandeville, LA. This location will be used for the Mandeville Lakefront Fireworks event.

(b) Effective Dates and Enforcement Periods. This rule is effective during five individual events occurring on three separate dates from April 27, 2015 through July 4, 2015. The temporary safety zones will be enforced during the following dates and times:

(1) April 27, 2015, in the evening for one hour or less in the location noted in section a.1.

(2) April 28, 2015, in the evening for one hour or less in the

location noted in section a.1.

(3) July 4, 2015, in the evening for one hour or less in the location noted in section a.2.

(4) July 4, 2015, in the evening for one hour or less the locations noted in section a.3 and a.4.

(c) Regulations. (1) In accordance with the general regulations in § 165.23 of this part, entry into these zones is prohibited unless specifically authorized by the Captain of the Port (COTP) New Orleans or designated personnel. Designated personnel include commissioned, warrant and petty officers of the U.S. Coast Guard assigned to units under the operational control of Sector New Orleans.

(2) Persons and vessels requiring deviation from this rule must request permission from the COTP New Orleans or a COTP New Orleans designated representative. They may be contacted on VHF-FM Channel 16 or 67, or through Coast Guard Sector New Orleans at 504-365-2200.

(3) Persons and vessels permitted to deviate from this rule must transit at the slowest safe speed and comply with all lawful directions issued by the COTP New Orleans or designated representative.

(d) Information Broadcasts. The COTP New Orleans or a COTP New Orleans designated representative will inform the public through broadcast notices to mariners of the enforcement period for the safety zones as well as any changes in the planned schedule.

Dated: April 24, 2015

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P. C. Schifflin  
Captain, U.S. Coast Guard  
Captain of the Port New Orleans.



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